



July 14, 2022

President Joseph R. Biden
The White House
1600 Pennsylvania Ave., NW
Washington, DC 20500

Dear President Biden:

On behalf of our more than 60,000 pharmacists, student pharmacists, and pharmacy technician members, we write to request that the U.S. Department of Health & Human Services clarify its recently published document, “Guidance to Nation’s Retail Pharmacies: Obligations under Federal Civil Rights Laws to Ensure Access to Comprehensive Reproductive Health Care Services” (the “guidance”).

ASHP policy supports patients’ right to medication therapy — we recently [affirmed](#) our support for both patient access to reproductive healthcare and protection from retribution for pharmacists who are providing such care in accordance with their individual beliefs. However, we are concerned that some of the language in the guidance could be misinterpreted or misapplied to unnecessarily limit pharmacists’ authority and clinical decision-making, to the detriment of patients.

Specifically, the guidance states that “pharmacies may not discriminate against pharmacy customers on the bases prohibited by Section 1557 and Section 504—including with regard to supplying medications; **making determinations regarding the suitability of a prescribed medication for a patient; or advising patients about medications and how to take them**” [emphasis ours]. Medication review and medication counseling are key elements of pharmacists’ clinical scope of practice. Although we understand the intent of the guidance is to protect patient access to medications that may have reproductive health indications, the language used is so broad that it could be read to limit the current obligations and authorities pharmacists have as state-licensed autonomous healthcare professionals and providers. Pharmacists are expected to provide all patients with comprehensive medication therapy management and to act in the best interest of the patient, ensuring their medication therapy is optimal, safe, and effective. Further, the guidance by HHS also potentially conflicts with state laws regarding pharmacy practice and clinical decision-making, adding to the confusion and apprehension around state and federal laws pharmacists and other clinicians face in the aftermath of the *Dobbs v. Jackson Women’s Health Organization* decision.

We request HHS clarify that the guidance is in no way intended to abrogate or obstruct the pharmacist-patient relationship or limit the clinical decision-making obligations and authorities of pharmacists by nature of their professional license and professional oath. Further, we urge HHS to provide additional detail regarding the interaction of federal discrimination laws and state laws regarding reproductive health.

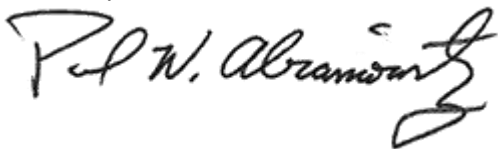
Finally, because pharmacy resides at the nexus of many of the post-*Dobbs* emerging issues — including access to emergency contraception, telehealth restrictions on abortion medications, and importation of medications — we request that HHS create and maintain communication linkages (e.g., through a workgroup, standing meeting, etc.) with ASHP and other state and national organizations representing pharmacists. HHS should also consider adopting the Food and Drug Administration’s practice of establishing Memoranda of Understanding (MOUs) with groups to allow the agency to seek subject-matter expert input outside of notice-and-comment rulemaking

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processes. Open, direct communication could help the agency create tailored guidance and solutions for emergent issues, while avoiding confusion or misinterpretations.

ASHP shares the administration's commitment to ensuring patients can access the medication necessary for maintaining all aspects of their health, including reproductive health. As work on these issues continue, we urge you to view ASHP as a resource. We look forward to working with you to protect our patients and improve our nation's health.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul W. Abramowitz". The signature is fluid and cursive, with a large, stylized initial "P" and "A".

Paul W. Abramowitz, PharmD, ScD (Hon.), FASHP
Chief Executive Officer

Cc: Xavier Becerra
Secretary
U.S. Dept. of Health & Human Services
200 Independence Ave. SW
Washington, D.C. 20201